

**PUBLIC SERVICE COMMISSION
STATE OF MONTANA**

Nancy McCaffree, Chair
Dave Fisher, Vice Chair
Bob Anderson
Danny Oberg
Bob Rowe



1701 Prospect Avenue
PO Box 202601
Helena, MT 59620-2601
Telephone: (406) 444-6199
FAX: (406) 444-7618
Compuserve: 70642,1607

DOCKET FILE COPY ORIGINAL

July 12, 1996

RECEIVED
JUL 15 1996
FCC

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington DC 20554

RE: CC Docket No. 96-128

Dear Sir:

Enclosed for filing in the above described docket are the Reply Comments of the Montana Public Service Commission. I have enclosed the original and ten copies. Please return a conformed copy of this letter. I have enclosed a self-addressed stamped envelope for your convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen Finstad Hammel".

Karen Finstad Hammel
Staff Attorney

KH/dlp

Enclosures

CHIO

DOCKET FILE COPY ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of)
)
Implementation of the) CC Docket No. 96-128
Pay Telephone Reclassification)
and Compensation Provisions of the)
Telecommunications Act of 1996.)

RECEIVED
JUL 15 1996
FCC

REPLY COMMENTS OF
THE MONTANA PUBLIC SERVICE COMMISSION

Karen Finstad Hammel
Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

July 12, 1996

Montana Reply Comments, July 12, 1996
CC Docket No. 96-128

REPLY COMMENTS OF
THE MONTANA PUBLIC SERVICE COMMISSION

Summary

The Montana Public Service Commission supports the position taken in initial joint comments filed by the Maine Public Utilities Commission, the New Mexico State Corporation Commission, and the Vermont Public Service Board. Their combined comments addressed two issues--rates for coin calls from pay stations and the criteria for public interest payphones. These determinations are best left to state commissions as they require a balancing of state policy issues. State commissions are better equipped to consider relevant local conditions than is the Federal Communications Commission.

Introduction

On June 6, 1996 the Federal Communications Commission (Commission) released a Notice of Proposed Rulemaking (NPRM) on the implementation of the pay telephone reclassification and compensation provisions of the Telecommunications Act of 1996 (Act). The Montana Public Service Commission (Montana) did not submit initial comments in this proceeding, but supports comments submitted jointly by the Maine Public Utilities Commission, the New Mexico State Corporation Commission, and the Vermont Public Service Board (Commenting States).

Rates for Local Coin Sent-paid Calls

The Commenting States addressed two issues--rates for coin calls from pay stations and the criteria for public interest payphones. Section 276¹ of the Act requires the Commission to establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphones. In ¶¶ 21 and 22 of the NPRM, the Commission proposes three different options to ensure fair compensation to payphone service providers: (1) to set a nationwide local coin rate for all calls originated by payphones that would be binding on all the states; (2) to prescribe guidelines for the states to use to determine the rates; or (3) defer to the states to continue to set coin rates for local payphone calls.

¹ 47 U.S.C. § 276(b)(1)(A).

Montana supports the position of the Commenting States urging the Commission to adopt rules that allow states to establish local coin rates. Montana agrees with the Commenting States that the Act does not authorize the Commission to set retail coin rates. In fact, state preemption in this area is only allowed in situations where state requirements are inconsistent with the Commission's regulations. See 47 U.S.C. § 276(c).

More importantly, Montana agrees with the Commenting States that a nationwide local coin rate would fail to meet the Act's directive of ensuring fair compensation to payphone service providers. Because the costs of providing payphone service will likely vary considerably across the country, fair compensation for payphone providers will also vary.

In addition, as the Commenting States explain, setting local coin rates often may require a balancing of several policy issues, which is generally best left to the states. In fact, at ¶ 22 of the NPRM the Commission acknowledges the significant interest of the states in setting end-user rates for local calls. States are in the best position to take into consideration relevant local conditions such as taxes, local labor and construction costs, while at the same time ensuring that payphone providers are fairly compensated.

Public Interest Payphones

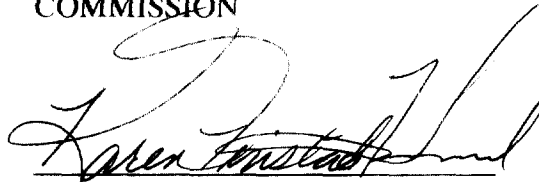
Section 276 of the Act also requires that the Commission determine whether public interest payphones should be maintained, and if so, ensure that such payphones are supported fairly and equitably. See 47 U.S.C. § 276(b)(2). Montana concurs with the Commenting States position that the determination of public interest payphone regulations and siting requirements are most appropriately left in the hands of local authorities. However, if the Commission

decides to prescribe national regulations regarding such payphones, Montana further agrees that it should also prescribe a funding mechanism that derives funds from the service over which the Commission has authority--interstate service

Conclusion

The Montana Public Service Commission believes states are in the best position to carry out policies that ensure that payphone service providers are fairly compensated for the use of their phones. Similarly, states should be allowed to continue to establish public interest payphone regulations and siting requirements.

FOR THE MONTANA PUBLIC SERVICE
COMMISSION

A handwritten signature in cursive script, appearing to read "Karen Finstad Hammel", written over a horizontal line.

Karen Finstad Hammel
Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601